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ABSTRACT

The Paiute Indian Tribe of Utah Restoration Act (1980) restored federal recognition of the tribe after a quarter century of ambiguous political status, and resulted in significant improvements of educational status of tribal members and intensification of the political presence of Southern Paiutes. Following the Paiute Indian Termination Act (1954), 15,000 acres of tribal lands were sold; the Paiutes suffered poverty, decreased education, and health problems. After restoration, a predominantly new Tribal Council was elected and a tribal goal of improving educational quality was set. By 1982, the median grade completed by persons over 18 years had increased, and a cultural enrichment program had been established, featuring Paiute language instruction, arts and crafts, and daily academic tutoring. The dropout rate decreased from 40% to 3%, and mothers reported that their children were doing better in school and were more interested in learning. College enrollment of tribal members also increased, with an average student age of 25.6 years indicating that a long-accumulated backlog of educational deficiencies was being remedied. The Council also planned to acquire lands equivalent to those lost after termination, and to provide jobs and revenue for community development projects. Traditional Paiute land tenure ideals hold that buying and selling of aboriginal claims are granting and revocation of use rights only. (MH)

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# UTAH PAIUTE TRIBAL RESTORATION

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Pocatello, Idaho
1984

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# UTAH PAIUTE TRIBAL RESTORATION

Allen C. Turner

## INTRODUCTION

On April 3, 1980, President Jimmy Carter signed Public Law 96-227, the Paiute Indian Tribe of Utah Restoration Act. This Act of Congress ended a quarter century of ambiguous political status for the Southern Paiute Indians by abrogating the Paiute Indian Termination Act of September 1, 1954 (PL 83-762). The newly restored tribal entity is required under the law to acquire lands equal in acreage to that lost as a consequence of the termination of federal trust protection.

In this political ethnohistory, the focal interest is the persistence of traditional land tenure ideals among the Southern Paiute Indians of Utah. Attending that interest is a documentation of the consequences of the termination of federal recognition, and of its subsequent restoration, in terms of land transactions and the economic and educational status of the Utah Paiutes.

The restored tribe is a confederation of the Kanosh, Koosharem, Indian Peaks, Shivwits, and Cedar Bands and is organized under the provisions of the Indian Reorganization Act. The Utah Paiutes are aligning with the recognized Kaibab, Moapa, and Las Vegas Paiute Tribes for the purpose of influencing BIA policy. As a "Southern Paiute Nation" these four tribal groups have been successful in acquiring full agency services through a field station centrally located in Cedar City, Utah. This ends

an era of geopolitical divisions which artificially segmented the Southern Paiutes by state and federal jurisdictional boundaries despite their ethnic unity.

The Southern Paiute Indians of Utah were able to persist (Spicer 1971) without Federal recognition and did not assimilate into the general population. Nor did the population disperse; they remained, for the most part, within that area described by Kelly (1934) as aboriginal Southern Paiute territory. They have now made a formal proposal to the United States Congress to acquire reservation lands within that area (Fig. 1).

Cultural change and cultural continuity may be thought of as contradictory processes yet in the case of the Southern Paiutes it may be that an adaptive strategy (Bennett 1976) that has been successful is one in which some degree of change has promoted their capacity to endure as a distinctive ethnic group with fairly distinct boundaries (Barth 1969). One of the factors identified as being particularly powerful in cultural change is imposed land tenure systems. Imre Sutton, for example, presents the hypothesis that:

> Imposed land tenure systems have been most significant in precipitating culture change among Indians (1975:5).

Indeed, the history of land actions among the Southern Paiutes is one of imposed land tenure systems. The entry of the Mormon settlers in the middle of the 19th century into the Great Basin quickly resulted in the loss of crucial water resources and access to foraging grounds (Brooks 1944, Malouf 1966) and did precipitate much sociopolitical change among the Paiutes (Euler 1966:100ff).

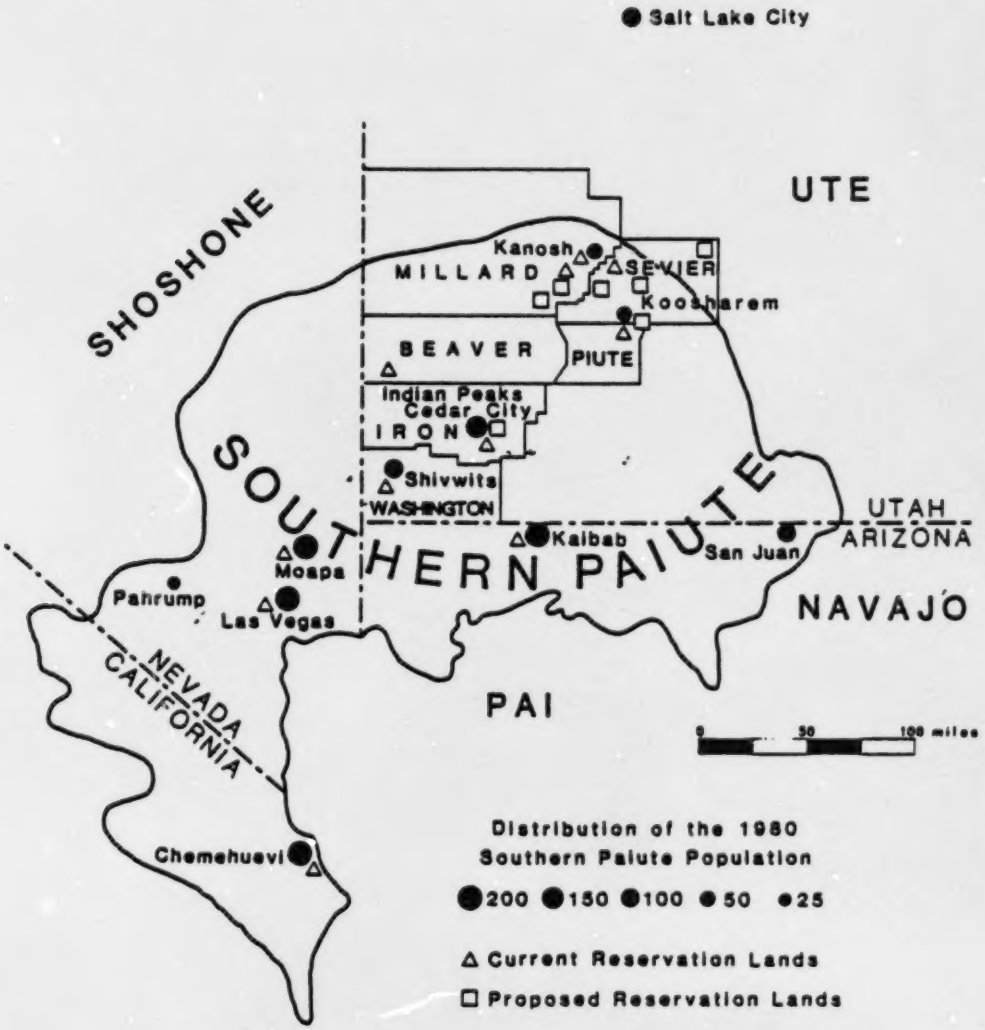


Figure 1. Distribution of the Southern Paiute Population

In 1865, a group of chiefs and headmen, perhaps so designated by non-Indians seeking to acquire lands, signed the Treaty of Pinto Creek. In this treaty the Paiute signatories relinquished claim to most of southern Utah territory and promised to vacate to the Uintah Reservation in northern Utah in exchange for a guaranteed annual income, some draft animals, and some farming equipment. The treaty was not ratified and the Paiutes did not remove themselves from their aboriginal homelands (Hawkins 1954).

During the first half of the 20th century, the Utah Paiutes regained some of their losses as reservations were established on remnants of their aboriginal hegemony (BIA 1956c). Then, in the late 1950s, about one third of these lands were alienated when tribal members passed resolutions partition of reservation lands pursuant to the provisions of the Termination Act of 1954 (BIA 1956e).

In the late 1960s, the Utah Paiutes were awarded compensation for their losses by the Indian Claims Commission. And now, once again, the Utah Paiutes are attempting to reclaim a protected land base.

It appears that one generation of Paiute leaders sells the land and the next buys it back. Yet it is clear that this real estate activity is not a cynical rejection of traditional land tenure ideals. Indeed, despite its occupancy by aliens, deeds of conveyance and Acts of Congress notwithstanding, the land remains ultimately inalienably Paiute.

Rather, the buying and selling of aboriginal claims are seen as the granting and revocation of use rights only. This is a continuation of a longstanding and traditional pattern of land tenure--usufruct (cf. Palmer 1929,1933). In the words of one young man of the Shivwits Band:

> Why do we get put down and land near Brian Head denied us. Land which is really Indian land....It sure is confusing to me....All we want is some of our own lands that we can develop (St. George Spectrum 1-17-82).

How can we account for the fact that, despite imposed land tenure systems, this fundamental precept continues? Spicer (1962:586) offers a useful hypothesis:

> Where there is continuity in the Indian form of the family there is less change.

The advocates of termination failed to recognize the sustaining power of the bilateral kinship network which connects the Utah Paiutes with each other and with the Southern Paiutes in adjacent Nevada and Arizona. Likewise, Shoshonean endogamy, reinforced by the endogamy of the surrounding non-Indian population, provided an enculturative milieu within which more traditional values, including those regarding land tenure could be inculcated.

## TERMINATION

To say that Restoration could not have occurred without Termination is self-evident. Yet it is not entirely so to suggest that the current levels of political activity and ethnic resurgence were initiated by the Termination Act. At the same time it is important to recognize that termination failed to

produce the results anticipated. The Paiutes were not able to divest themselves of all of their lands; they did not become capitalist entrepreneurs as promised by the champion of termination Senator Watkins of Utah (United States Congress 1954); and they did not disperse from their homelands. But they did become organized politically.

Ironically, the Paiutes received more attention and service from the BIA after termination than they had before. Bureau agents were dispatched to southern Utah where they spent many laborious days seeking out Paiutes, organizing councils, and explaining their options under the law. As a consequence, many informally appointed traditional leaders were displaced by politically more astute persons interested in the divestment of reservation resources (BIA 1956b). Tribal councils were formed where they had not existed before and lists of members of the newly formalized bands were drawn up. These were to be the beneficiaries of termination (BIA 1956e).

Meanwhile, government real estate personnel surveyed and appraised the lands. Their value ranged from $2.57 per acre for the arid 28,000 acre Shivwits Reservation to nearly $16 per acre for the relatively fertile 5000 acre farmlands of the Kanosh. At appraised values, the per capita share ranged from $90 for the Koosharem people to over $2000 for the Kanosh (BIA 1956a).

The first resolutions passed by the fledgeling Shivwits, Indian Peaks, and Koosharem councils were to authorize the sale of the reservations (they astutely reserved the subsurface rights) and to disburse the proceeds on a per capita basis. At

Kanosh, the council decided to partition the lands among the four principle families (BIA 1956a).

The lands, for the most part, failed to sell despite the fact that the Phoenix Area Office assisted by supplying the names of 133 real estate agents to the Cedar City field office. While there were many willing sellers and many agents, there were not many buyers. Most bids were too low (BIA 1956d). Why buy land for three or four dollars per acre when it could be leased for ten to fifty cents per acre? And why incur the tax liability?

Some lands did sell. Indian Peaks was sold to the State of Utah where it is now a game preserve. The Koosharem Reservation was sold for back taxes. The Kanosh partitions were sold, in many cases, to the same non-Indian families from which they had been purchased some twenty years earlier and for prices less than what the government had originally paid. The Shivwits Reservation received no satisfactory bids and went to the trusteeship of the Walker Bank of Salt Lake City. In sum, the surface rights to just over fifteen thousand acres, one third of the Utah Paiute Bands' combined assets, were alienated through partition or through sale. Total proceeds were about $120,000 for an average share of $300. No one received more than $1500. No one got rich (BIA 1956a,e; Haverland 1956).

The bands, artifacts of termination legislation, were augmented in numbers over the years by natural increase and by subsequent legislation creating entitlements to judgement funds under the Indian Claims Commission Act of October 17, 1968.

Through this Act, the Cedar Band of Paiutes received de facto acknowledgement by the United States.

While they may have been communities at the time of their first enumeration, the bands are no longer isomorphic with community. A quarter century of local exogamy and assortive post-marital residential mobility has left the band "an empty form" (Knack 1974:39). They are administrative units whose population is dispersed throughout Paiute country.

In 1971, with the urging of non-Indian businessmen, the Paiutes formed the Utah Paiute Tribal Corporation. As a private, nonprofit corporation, this entity applied for and received assistance from the Economic Development Administration for the construction of "multipurpose buildings", and through the Department of Housing and Urban Development for housing. The Tribal Corporation was directly governed by a Board of Directors who were representatives from each of the five constituent bands. A shadow governing board of advisors, all non-Indian, advised and influenced the decisions made by the Directors. One advisor called it "arm-twisting."

Factional dispute characterized the activities of the corporation as directors saw each other as either self-serving or benefiting one's own band at the expense of the others. An image of limited federal good (cf. Foster 1965) seems to have been the prevailing philosophy.

## RESTORATION

In 1974, one of my students at Southern Utah State College, a Paiute man now serving as Tribal Chairman, indicated

interest in studying the local Indian community. He was particularly interested in finding out if the tribe could regain some of its lost lands. His research led to the Menominee who had just been restored to federal recognition. He discussed the possibility of land reclamation with tribal elders and with a recently graduated attorney, Mr. Larry Echohawk, who was serving as pro bono attorney for the tribe. In a recent interview, Echohawk (1983) recalls:

> I researched the case and thought that the best route would be to prepare legislation like that of the Menominee. We briefed the Utah Congressional delegation in person. Moss was the most favorable. Then he lost to Hatch. We thought that was a set-back and for several months we hesitated to talk to Hatch. We prepared background research documenting the problem of the Paiutes and presented it to Hatch. We were surprised at his response. He held low key hearings in southern Utah and there was no opposition. Hatch had an even greater interest than did Moss. Hatch sold it to the people on the basis of the facts of the case. The Paiutes had been suffering. Children were not being educated. There were health problems. He tip-toed along....He got no adamant opposition.

Senator Hatch prepared the legislation co-sponsored by Representative Dan Marriott for the restoration of federal recognition and trust protection for the Utah Paiutes. On April 3, 1980 the Paiute Indian Tribe of Utah was signed into existence by President Jimmy Carter.

Two quite conservative congressmen had invested their political capital in the Utah Paiutes and accomplished a feat that perhaps more liberal delegates could not have done.

## The Political Community

The restored Paiute Indian Tribe of Utah is a constitutional confederacy of the four terminated bands and the

Cedar Band. The jural polity consists of 511 charter members who are members of the constituent bands. The extended community consists of these enrolled members plus their co-resident family members who may be un-registered or registered with other tribes.

Community boundaries are not precisely defined by the various city, county, state, or federal jurisdictional bounds. Many generations of local exogamy have established a bilateral kinship network connecting Utah Paiute settlements and joining them with other Southern Paiute settlements in Nevada and Arizona. The community is defined by this network of social relations. other, primarily Shoshonean, tribes.

In my sample of 31 marriages in which the band or tribal affiliation of both spouses was determined, there appears to be a preference for endogamy within a within a Basin Shoshonean connubium. Twenty-four marriages (77.4%) were contracted between Shoshoneans including other Southern Paiutes, Northern Paiutes, Gosiutes, and Northern Shoshoni.

The choice of marriage partner may have been a matter of strategic design (Bennett 1976:272) in that the effects of termination were mitigated. It is widely recognized that marriage to a member of a recognized tribe brought with it eligibility for housing, health care, and employment.

Additionally, Paiute endogamy inhibited the anticipated dispersal and assimilation of the Utah Paiute population. Of the 511 registered tribal members, 316 continue to reside in southern Utah within the four counties (Washington, Iron, Millard, and Sevier) designated as Band Service Areas. Fully seventy-five

percent remained within the larger area designated by Kelly (1934) as aboriginal Paiute territory.

The Tribal Council

In the first tribal council election held by the restored tribe in November 1981, all but one of the incumbents of the Board of Directors were replaced by more youthful and more educated people. Voter turnout was small with 44.2% of the 298 eligible voters casting votes. In the subsequent election for Tribal Chairman only 64 votes (21%) were cast and only 30 of those were for the winner.

Secular, social, and sacred factors make variable contributions to patterns of tribal governance. In Dobyns's (1981) analysis of the tenure of Indo-American chief executives, six patterns are found. These include "elected theocracy", "secular governance replacing theocracy", "strong chiefs", "clan affiliated officers", "elite political lineage", and "secular unanimous consensus". Among the Utah Paiutes several variants are found. The Koosharem chairman is the only member of the Council to have retained incumbency on the principle governing body throughout the transition from terminated to restored status. While seldom an outspoken persuader nor a "strong chief", she does represent an elder, more traditional, and perhaps more sacred orientation than her counterparts from other bands. Her father was one of the few outspoken opponents of termination.

The Kanosh chairman is a young college educated woman and the daughter of a former charismatic chief executive with strong

leadership who served in principle governance positions for most of the termination era.

The Indian Peaks chairman is the educated daughter of a former chief executive of the Las Vegas Band of Paiutes in Nevada. Her mother was a council member at the time of termination. Several other of her lineal kin have served in tribal offices both in Indian Peaks affairs and in those of other tribes.

The Cedar Chairman is also the generally elected chairman of the Tribal Council. College educated and persuasive, this individual is matrilineally related to two pre-termination tribal spokesmen.

The Shivwits chairman was educated in the local high school and appears to be a charismatic spokesman and diplomat. He, unlike the others on the Council, is not of political descent.

We see in this Council a range of factors contributing to their incumbency. While membership in a political lineage is most evident in the case of Indian Peaks, and perhaps to a lesser extent in the others, elite political lineages are not clearly the major organizing principle here. Analysis of tribal geneologies shows no distinction between those in and and those out of office. Extensive affinal connections among members of the senior generations in this endogamous community means that virtually everyone is a cognatic descendant of a tribal leader.

This Tribal Council might best be characterized as an educated electoral-executive elite. Neither kinship nor cosmology

seem to vary sufficiently within this group to make any difference with respect to eligibility for office.

The Tribal Council is a multi-functional governing and decision making body. The Council is quasi-judiciary and makes decisions on issues from employee malfeasance to housing evictions. The only feature distinguishing the Tribal Council from the Tribal housing authority is the respective chairman of each body. Meetings of one body merge with those of the next with only the chairman's seat being sequentially occupied by one person and the next.

The full Council also interviews job applicants, sets developmental goals, and passes on applications for tribal membership.

At the political level (Swartz, Tuden, and Turner 1966), the Tribal Council identifies community goals and interacts with other governmental agencies. Presently, the Council is particularly concerned about rectifying long accumulating deficits in economic and educational status and in identifying and securing lands for reservation status. The progress of the Council in meeting these objectives is documented below.

Economic Change

In 1954, the Paiutes were destitute. Only six of the 45 families (13%) were counted as self-sufficient by the Bureau of Indian Affairs. The remaining 39 families (86%) were dependent on various levels of public and church support. Family income levels were estimated to be on the order of one-third to one-half that of non-Indian families in the surrounding area (Lewis 1954).

Income levels of the Paiutes indicate continuing poverty in the post-termination era. Family income reported in 1968 (BIA 1968:10) averaged $2746 which was, for the then average family of 3.5 persons, only $774 per capita. In 1973, the average family income was $5510, but because the family size was larger at 5.3 persons per household, the per capita income was less at only $557 (Knack 1980:25,39). By 1981, the per capita income was $2124 and the average household size was about 5.0 persons for an average household income of $10,620 (PITU 1982:II-8). This is still below the 1982 official poverty level of $10,640 for a non-farm family of five (Federal Register Volume 47, number 69).

Educational Change

At the time of termination, the adult literacy rate was 76% and only 49 of the 75 (65%) school age children were actually attending school. In the years following termination, the educational profile remained below that of the surrounding community (Lewis 1954). In 1968, the median grade completed by persons over the age of 18 years was 8.1 (BIA 1968:5,7,9). By 1973, there was a slight decline to 7.7 years (Knack 1980:33,39).

With the passage of the Restoration Act, the educational picture began to change. In 1981, the average grade was still only 9.1 years (PITU 1982:II-7,8). But by 1982, the transformation had begun. In keeping with the tribal goal of improving the quality of education, the Tribal Education Department reported an average grade attainment of 9.6 years. This is still significantly less than that of the State of Utah at large wherein the average is 11.2 years. More importantly, the

tribe received $143,000 through the Johnson-O'Malley Act and applied those funds to a cultural enrichment program featuring Paiute language instruction, arts and crafts, and daily academic tutoring in each of the four Band areas (Kanosh, Richfield, Cedar City, and Shivwits).

Presently, 162 Paiute children are participating in the tutoring sessions (PITU 1983). The education department employs 24 part-time tutors and sponsors archeological field trips to Paiute and other sites in the area. The local college, Southern Utah State, supplies an additional 30 tutors who work together with their Paiute counterparts.

The director of the Tribal Education Program reports that whereas previously there was a forty percent dropout rate before the eighth grade, only five of 170 (3%) children had dropped out in the 1981-1982 school year. Mothers reported that their children were doing better in school and that they have more interest in learning. Eleven students completed high school equivalency examinations in 1981.

College enrollment in 1981-1982 was up considerably with 45 of 140 persons (33%) in the 18 to 38 year cohort enrolled in post secondary academic and vocational courses. These included 14 at Dixie College, 19 at Southern Utah State, four at Sevier Valley Tech, two each at the University of Utah and Utah State, one at the Salt Lake Skills Center, and two in independent vocational apprenticeships in the communications industry.

While male students seem to prefer vocational over academic pursuits, 13 and 6 respectively, females tend to be more

evenly distributed with 11 in vocational and 16 in academic courses.

One student, the tribal chairman, has received graduate training in social work and another man is expected to enter graduate school in psychology. It is significant that many of the college students are single mothers and that the average age of Utah Paiute college students is 25.6 years of age. This clearly shows that a long accumulated backlog of educational deficiencies is being remedied.

Reservation Reclamation

With respect to the acquisition of reservation lands, the Restoration Act requires that the Tribe establish a plan for the acquisition of not more than 15,000 acres of "available public, State, or private lands within Beaver, Iron, Millard, Sevier, or Washington Counties, Utah (Sec. 7(c) 94 Stat. 320). This is an amount equivalent to that lost after termination. The Restoration Act specifically bars any legal claim for lands lost through "tax sales or any other sales to individuals or the State of Utah since September 1, 1954" (Sec. 8, 94 Stat. 322). In other words, former reservation lands are exempt from consideration.

In 1981, the tribal officials and planners defined land acquisition priorities. They envisioned that "self-sufficiency" and "self-esteem" could best be enhanced if economically valuable lands were acquired. Other more readily accessible lands were not acceptable. The plan was to acquire lands that could provide jobs and revenue which could be invested in community development projects.

The resulting Reservation Plan (PITU 1982) calls for the acquisition of seven parcels of land, most of which do have the potential for economic return. These include 4,800 acres administered by the Bureau of Land Management and 8,250 on the Manti-La Sal National Forest. The BLM lands include parcels at highway interchanges where gas stations, tax-exempt "smoke shops" and other tourist or traveler oriented businesses could be located. There is also a geo-thermal site and a potential home or village site near the former Koosharem Reservation. Another parcel at Fish Lake has long been a favorite Paiute camping and fishing site with "historical and cultural value" (ibid).

The Forest Service land has the greatest potential value as a coal lease. It is currently leased by a coal company and has been the source of considerable conflict involving a political field including the Paiutes, local governments, the Congress of the United States, and the Department of Agriculture. A Forest Service solicitor offered the opinion to the Secretary of the Interior that there are no Forest Service lands that meet the criterion of "available public lands". The BIA was instructed to revise the Reservation Plan to include only BLM lands. Some thought that the coal interests had exerted influence on the decision. Nevertheless the tribe has remained adamant by insisting that the coal lands were essential to tribal interests. The tribe submitted its original plan to Congress and now is awaiting its decision.

## CONCLUSIONS

The Utah Paiutes have a long history of land transactions involving temporary rather than permanent sales. Even though deeds of conveyance have been issued, the Paiute attitude that all the land remains ultimately within the Paiute dominion persists. Current attempts by the newly restored Tribe are consistent with that philosophy.

The restored tribe has made significant gains in improving the educational status of its members. More students are now in school than ever before. It is anticipated that the economic situation will improve likewise as educational deficiencies are reduced and as economically productive lands are acquired.

It is noteworthy that even though the Termination Act and the Restoration Act have opposite intents, both have resulted in an intensification of the political presence of the Southern Paiutes of Utah. In both cases land transactions were required and the requisite leadership emerged to enact the law. Now the Paiute Indian Tribe of Utah has joined with the Moapa and Las Vegas Paiutes of Nevada and the Kaibab Paiutes of Arizona to form an incipient Southern Paiute Nation. Their common interests are being identified and pressures are being brought to bear on the Bureau of Indian Affairs. In 1983, they were successful in bringing about the establishment of a Field Station located centrally in Cedar City, Utah. This station will provide a full range of Bureau services to the constituent membership thus

ending the diffusion of services that had characterized the situation for many decades.

## NOTE

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